

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 16**

**Fort Worth, Texas**

**DEL-JEN, INC.**

**Employer**

**and**

**Case No. 16-UC-209**

**UNITED STEELWORKERS OF AMERICA,  
AFL-CIO, CLC**

**Petitioner**

**DECISION AND ORDER CLARIFYING UNIT**

The Petitioner filed a unit clarification petition under Section 9(a) of the National Labor Relations Act seeking to include the positions of machinery maintenance mechanic and maintenance sheet-metal worker in the bargaining unit certified in Case No. 16-RC-10501. The Petitioner also seeks to clarify its bargaining units certified in Case Nos. 16-RC-10501 and 16-RC-10505 to avoid ambiguity between those units and the International Association of Machinists and Aerospace Workers, AFL-CIO (IAM) units certified in Case Nos. 16-RC-10560 and 16-RC-10561. The Employer<sup>1</sup> does not contest the proposed clarifications and the parties have stipulated to the facts in this case and waived briefs.

---

<sup>1</sup> The Employer, Del-Jen, Inc., is a California corporation engaged in the business of providing subcontractor services under the Department of Defense and Department of Labor contracts with the United States government. During the past 12-month period, a representative period, the Employer purchased and received goods and materials valued in excess of \$50,000 from sources located outside the State of Texas.

Based on the record and the stipulated facts presented by the parties, I will order the clarification of the bargaining units as certified in Case Nos. 16-RC-10501 and 16-RC-10505. In so doing, I find it appropriate to include machinery maintenance mechanics and maintenance sheet-metal workers in the bargaining unit certified in 16-RC-10505 and to include language in the definitions of the Petitioner's bargaining units certified in 16-RC-10501 and 16-RC-10505 to avoid ambiguity with the IAM units certified in 16-RC-10560 and 16-RC-10561.

## **FACTS**

### ***A. Background***

The Employer is a California corporation that provides subcontractor services at Laughlin Air Force Base (Laughlin AFB) pursuant to contracts with the United States Department of Defense and the United States Department of Labor. The employees of the Employer have been divided into four separate bargaining units for the purposes of representation. The Petitioner and IAM each represent two units.

#### ***1. Petitioner's Units***

On June 30, 2003, the Regional Director in case 16-RC-10501 certified the Petitioner as the representative of a bargaining unit of the Employer's employees defined as:

**Included:** All full-time and regular part-time fire alarms system mechanics, appliance technicians, carpenters, electricians, fuel distribution system mechanics, general maintenance laborers, heavy equipment operators, HVAC lead, HVAC mechanics, janitors, laborers, lead appliance technicians, lead electrician, lead janitor, maintenance trades helpers, painters, plumbers, small engine mechanics, sewage plant operators, welders, EMCS operators (engineering technicians IV).

**Excluded:** All office employees, including office clerical employees, professional employees, guards and supervisors as defined in the Act.

On July 16, 2003, the Regional Director in case 16-RC-10505 certified the Petitioner as the representative of a bargaining unit defined as:

**Included:** All full-time and regular part-time service order dispatchers and material coordinators.

**Excluded:** All office, clerical employees, guards, professional, and supervisors as defined in the National Labor Relations Act.

## *2. IAM's Units*

On June 11, 2004, the Regional Director, in cases 16-RC-10560 and 16-RC-10561, certified IAM as the representative of two separate bargaining units. The unit certified in 16-RC-10560 is defined as:

**Included:** All full-time and regular part-time grounds maintenance laborers, tractor operators, gardeners, and lead gardeners.

**Excluded:** All other employees, including office employees, clerical employees, professional employees, guards, supervisors as defined in the National Labor Relations Act.

The unit certified in 16-RC-10561 is defined as:

**Included:** All full-time and regular part-time fuel distribution system mechanics, material coordinators, aircraft service bulk fuels supervisors/leads, aircraft servicers, fuel distribution system operators, lab technicians (fuels), truck drivers medium, truck drivers light, dispatchers motor vehicles, dispatchers motor vehicles leads, painters automotive, motor vehicle master mechanic apprentices, motor vehicle mechanics, auto body repairers, material expeditor leads, material expeditors, production control clerk supervisors/leads, warehouse specialist leads HMO, warehouse specialist leads, warehouse specialists,

shipping/receiving clerks, stock clerks, order clerks II, order clerks I, order fillers, document preparation clerks, computer programmers II, computer operator III leads, computer operators III, computer operators II, accounting clerks IV, general clerks I, general clerks II, general clerks III, and schedulers maintenance (vehicle).

**Excluded:** All other employees, including office employees, clerical employees, professional employees, guards, and supervisors as defined in the National Labor Relations Act; **AND EXCLUDED** All fuel distribution system mechanics included in the unit under the NLRB Certification in Case No. 16-RC-10501 and all material coordinators included in the unit under the NLRB Certification in Case No. 16-RC-10505.

### ***B. The Petition***

On October 27, 2004, Petitioner requested that the Board clarify its bargaining units in two ways.

First, Petitioner seeks to clarify the bargaining unit certified in 16-RC-10501 to include two new job classifications: machinery maintenance mechanic and maintenance sheet-metal worker. The Employer created these two classifications after the certification of the 16-RC-10501 bargaining unit due to the modified need of the United States government under the Employer's service contracts. Neither the Employer nor IAM contests their inclusion in the 16-RC-10501 bargaining unit.

Second, Petitioner seeks to clarify ambiguities in the definitions of its bargaining units certified in 16-RC-10501 and 16-RC-10505 resulting from the Regional Director's certification of new IAM bargaining units in 16-RC-10560 and 16-RC-10561. The ambiguities arise because the definitions of the bargaining units in 16-RC-10560 and 16-RC-10561 contain some of the same job classifications as the definitions in 16-RC-10501 and 16-RC-10505. The parties have stipulated that although the job classifications are

the same, employees in those classifications perform different job duties and are supervised by different managers. The parties propose that new language be added to the definitions of the bargaining units certified in 16-RC-10501 and 16-RC-10505 to eliminate the ambiguity.

### *C. Proposed New Language*

For the above-stated reasons, the Petitioner has requested that the Regional Director clarify the bargaining units as defined in 16-RC-10501 and 16-RC-10505 as follows (the changes are reflected in boldface type):

(a) 16-RC-10501:

**Included:** All full-time and regular part-time fire alarms system mechanics, appliance technicians, carpenters, electricians, fuel distribution system mechanics, general maintenance laborers, heavy equipment operators, HVAC lead, HVAC mechanics, janitors, laborers, lead appliance technicians, lead electrician, lead janitor, maintenance trades helpers, painters, plumbers, small engine mechanics, sewage plant operators, welders, EMCS operators (engineering technicians IV), **machinery maintenance mechanics and maintenance sheet-metal workers.**

**Excluded:** All office employees, including office clerical employees, professional employees, guards and supervisors as defined in the National Labor Relations Act, **AND EXCLUDED: all categories of mechanics, sheet-metal workers, and fuel distribution system employees included in NLRB Certification in Case No. 16-RC-10561, and all employees included in NLRB Certification in Case No. 16-RC-10560.**

(b) 16-RC-10505:

**Included:** All full-time and regular part-time service order dispatchers and material coordinators.

**Excluded:** All other employees, including office employees, clerical employees, professional employees, guards, and supervisors as defined in the National Labor Relations Act; **AND EXCLUDED: all material**

**coordinators included in the unit under NLRB Certification in Case No. 16-RC-10561; and all employees included in NLRB Certification in Case No. 16-RC-10560.**

### **ANALYSIS**

Based on the record and the stipulated facts presented by the parties, I have decided to issue an order clarifying the bargaining units as certified in Case Nos. 16-RC-10501 and 16-RC-10505.

Section 9(c)(1) of the National Labor Relations Act grants the Board the authority to certify unions as the bargaining representative of employees when appropriate. Along with that authority comes the implied ability to police such certifications and to clarify them as a means of effectuating the policies of the Act. See *Union Electric Co.*, 217 NLRB 666 (1975). The Board has held that such clarifications are appropriate to resolve ambiguities arising from the creation of new job classifications that may create a dispute regarding unit placement as well as to clarify unit scope issues. See *Union Electric*, 217 NLRB 666 (1975); *Armco Steel Co.*, 312 NLRB 257 (1993).

#### ***A. Inclusion of Machinery Maintenance Mechanics and Maintenance Sheet-Metal Workers***

Since the certification of the bargaining unit in 16-RC-10501 in June 2003, the Employer has been compelled by changes to its contract agreement with the United States government to create the new job classification of machinery maintenance mechanics and maintenance sheet-metal workers at its worksite at Laughlin AFB. The parties do not contest the need for the new job classifications.

Additionally, the parties agree that the two new job classifications share a community of interest with the employees currently in the bargaining unit certified in 16-

RC-10501 because the employees in the new classifications perform production and maintenance work similar to that performed by the current bargaining unit employees.

Because the employees in the new classification share a community of interest with those currently in the bargaining unit and because no dispute exists between the parties regarding the two new classifications, I find the petition to be timely and order that the bargaining unit as certified in 16-RC-10501 be clarified to include machinery maintenance mechanics and maintenance sheet-metal workers.

***B. Including Clarification Language***

Although most frequently used to clarify unit placement issues, the Board also recognizes clarification petitions as a means to resolve scope-of-unit issues. See *Armco Steel*, 312 NLRB 257. In the present case, ambiguities in the scope of the bargaining units at the Employer's Laughlin AFB facility arose when new units were certified in 16-RC-10560 and 16-RC-10561. The bargaining unit definitions in those cases include some of the same job classifications as the units certified in 16-RC-10501 and 16-RC-10505. The parties desire to include the job classifications in the different units as presently defined because, although some employees share the same classifications, they perform different job duties and are supervised by different managers. Therefore, to remove the ambiguity resulting from the certification of the units in 16-RC-10560 and 16-RC-10561, I find it appropriate and order that additional language be added to the bargaining unit definitions in 16-RC-10501 and 16-RC-10505 excluding from representation those employees of the same classifications represented in the bargaining units certified in 16-RC-10560 and 16-RC-10561.

**ORDER**

IT IS HEREBY ORDERED THAT the Certification of Representation issued on June 30, 2003, in Case No. 16-RC-10501 should be clarified as follows:

**Included:** All full-time and regular part-time fire alarms system mechanics, appliance technicians, carpenters, electricians, fuel distribution system mechanics, general maintenance laborers, heavy equipment operators, HVAC lead, HVAC mechanics, janitors, laborers, lead appliance technicians, lead electrician, lead janitor, maintenance trades helpers, painters, plumbers, small engine mechanics, sewage plant operators, welders, EMCS operators (engineering technicians IV), machinery maintenance mechanics and maintenance sheet-metal workers.

**Excluded:** All office employees, including office clerical employees, professional employees, guards and supervisors as defined in the National Labor Relations Act, AND EXCLUDED: all categories of mechanics, sheet-metal workers, and fuel distribution system employees included in NLRB Certification in Case No. 16-RC-10561, and all employees included in NLRB Certification in Case No. 16-RC-10560.

IT IS HEREBY ORDERED THAT the Certification of Representation issued on July 16, 2003, in Case No. 16-RC-10505 should be clarified as follows:

**Included:** All full-time and regular part-time service order dispatchers and material coordinators.

**Excluded:** All other employees, including office employees, clerical employees, professional employees, guards, and supervisors as defined in the National Labor Relations Act; AND EXCLUDED: all material coordinators included in the unit under NLRB Certification in Case No. 16-RC-10561; and all employees included in NLRB Certification in Case No. 16-RC-10560.

## **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision and Order Clarifying Unit may be filed with the



National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC 20570. This request must be received by the Board in Washington by 5:00 p.m. EST on February 18, 2005. This request may not be filed by facsimile transmission.

Dated at Fort Worth, Texas this 4<sup>th</sup> day of February 2005.

/s/ Curtis A. Wells

**Curtis A. Wells, Regional Director  
NLRB Region 16  
Rm. 8A24 Federal Office Bldg.  
819 Taylor Street  
Ft. Worth, Texas 76102-6178**